

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5076

To amend title 23, United States Code, relating to drunk driving.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1994

Mrs. BYRNE introduced the following bill; which was referred to the  
Committee on Public Works and Transportation

---

## A BILL

To amend title 23, United States Code, relating to drunk  
driving.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Marion Malley Walsh  
5       Drunk Driving Act of 1994”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Drunk driving crashes cost the United  
9       States health care system approximately  
10       \$6,000,000,000 in 1993.

1           (2) Drunk driving crashes cost American busi-  
2           nesses and workers approximately \$25,000,000,000  
3           in lost wages in 1993.

4           (3) It is estimated that alcohol was involved in  
5           45 percent of fatal motor vehicle crashes and in 7  
6           percent of all motor vehicle crashes in 1992.

7           (4) The 17,699 fatalities in alcohol-related  
8           motor vehicle crashes during 1992 represent an av-  
9           erage of 1 alcohol-related fatality every 30 minutes.

10          (5) About 355,000 persons were injured in  
11          motor vehicle crashes where police reported that al-  
12          cohol was present—an average of 1 person injured  
13          every 1½ minutes.

14          (6) More than 1,800,000 drivers were arrested  
15          in 1991 for driving under the influence of alcohol or  
16          narcotics—an arrest rate of 1 for every 92 licensed  
17          drivers in the United States.

18          (7) In 1992, an average of 35.2 percent of all  
19          fatal motor vehicle crashes during a week were alco-  
20          hol-related, compared to 58.2 percent on weekends.

21   **SEC. 3. DRUNK DRIVING.**

22          Chapter 1 of title 23, United States Code, is amended  
23   by adding at the end the following:

1 **“§ 161. Drunk driving**

2 “(a) TRANSFER OF APPORTIONMENTS FOR NON-  
3 COMPLIANCE.—

4 “(1) FIRST FISCAL YEAR.—On the first day of  
5 the first fiscal year succeeding the first fiscal year  
6 beginning after September 30, 1996, throughout  
7 which a State does not meet the requirements of  
8 subsection (b), the Secretary shall transfer 1½ per-  
9 cent of the funds apportioned to the State under  
10 each of paragraphs (1), (2), and (3) of section  
11 104(b) for such fiscal year to the apportionment of  
12 the State under section 402 of this title.

13 “(2) AFTER FIRST FISCAL YEAR.—On the first  
14 day of each fiscal year after the second fiscal year  
15 beginning after September 30, 1996, throughout  
16 which a State does not meet the requirements of  
17 subsection (b), the Secretary shall transfer 3 percent  
18 of the funds apportioned to the State under each of  
19 paragraphs (1), (2), and (3) of section 104(b) for  
20 such fiscal year to the apportionment of the State  
21 under section 402 of this title.

22 “(b) REQUIREMENTS.—A State meets the require-  
23 ments of this paragraph if the State has enacted and is  
24 enforcing a law that provides for 4 or more of the follow-  
25 ing:

1           “(1) Any individual with a blood alcohol con-  
2           centration of 0.08 percent or greater when driving a  
3           motor vehicle shall be deemed to be driving while  
4           under the influence of alcohol.

5           “(2) Any individual under age 21, driving with  
6           a blood alcohol concentration of 0.02 percent or  
7           greater, shall be deemed to be driving while under  
8           the influence of alcohol, and a blood alcohol content  
9           of at least 0.02 percent, but less than 0.08 percent,  
10          will be punishable by a fine of up to \$500 and a 6-  
11          month driver’s license suspension.

12          “(3) With respect to the impoundment of motor  
13          vehicles, the State law provides the following:

14               “(A) If an individual’s license has been  
15               suspended or revoked for an alcohol-related of-  
16               fense and the individual is thereafter caught  
17               driving, the vehicle the individual is driving will  
18               be immediately impounded or immobilized for  
19               30 days. The court can impound the vehicle for  
20               an additional 90 days following conviction.

21               “(B) The owner of the vehicle (other than  
22               the driver) may petition the court for release of  
23               the vehicle.

24               “(C) Any individual who knowingly permits  
25               operation of their motor vehicle by a person

1 known to have a revoked or suspended driver's  
2 license for an alcohol-related offense can be  
3 charged with a Class 1 misdemeanor.

4 “(4) Establishment of an expedited driver's li-  
5 cense suspension or revocation system for persons  
6 who operate motor vehicles while under the influence  
7 of alcohol which requires that—

8 “(A) when a law enforcement officer has  
9 probable cause under State law to believe a per-  
10 son has committed an alcohol-related traffic of-  
11 fense and such person is determined, on the  
12 basis of a chemical test, to have been under the  
13 influence of alcohol while operating the motor  
14 vehicle or refuses to submit to such a test as  
15 proposed by the officer, the officer shall serve  
16 such person with a written notice of suspension  
17 or revocation of the driver's license of such per-  
18 son and take possession of such driver's license;

19 “(B) the notice of suspension or revocation  
20 referred to in subparagraph (A) shall provide  
21 information on the administrative procedures  
22 under which the State may suspend or revoke  
23 in accordance with the objectives of this section  
24 a driver's license of a person for operating a  
25 motor vehicle while under the influence of alco-

1           hol and shall specify any rights of the operator  
2           under such procedures;

3           “(C) the State shall provide, in the admin-  
4           istrative procedures referred to in subparagraph  
5           (B), for due process of law, including the right  
6           to an administrative review of a driver’s license  
7           suspension or revocation within the time period  
8           specified in subparagraph (F);

9           “(D) after serving notice and taking pos-  
10          session of a driver’s license in accordance with  
11          subparagraph (A), the law enforcement officer  
12          immediately shall report to the State entity re-  
13          sponsible for administering drivers’ licenses all  
14          information relevant to the action taken in ac-  
15          cordance with this subparagraph;

16          “(E) in the case of a person who, in any  
17          5-year period beginning after the date of enact-  
18          ment of this section, is determined on the basis  
19          of a chemical test to have been operating a  
20          motor vehicle under the influence of alcohol or  
21          is determined to have refused to submit to such  
22          a test as proposed by the law enforcement offi-  
23          cer, the State entity responsible for administer-  
24          ing drivers’ licenses, upon receipt of the report  
25          of the law enforcement officer—

1           “(i) shall suspend the driver’s license  
2           of such person for a period of not less than  
3           90 days if such person is a first offender  
4           in such 5-year period; and

5           “(ii) shall suspend the driver’s license  
6           of such person for a period of not less than  
7           1 year, or revoke such license, if such per-  
8           son is a repeat offender in such 5-year pe-  
9           riod; and

10          “(F) the suspension and revocation re-  
11          ferred to under subparagraph (D) shall take ef-  
12          fect not later than 30 days after the day on  
13          which the person first received notice of the  
14          suspension or revocation in accordance with  
15          subparagraph (B).

16          “(5)(A) Establishment and maintenance of a  
17          graduated licensing program consisting of the follow-  
18          ing licensing stages for any driver under age 21  
19          years:

20               “(i) An instructional license, valid for a  
21               minimum period determined by the Secretary,  
22               under which the licensee shall not operate a  
23               motor vehicle unless accompanied in the front  
24               passenger seat by the holder of a full driver’s  
25               license.

1           “(ii) A provisional driver’s license which  
2           shall not be issued unless the driver has passed  
3           a written examination on traffic safety and has  
4           passed a roadtest administered by the driver li-  
5           censing agency of the State.

6           “(iii) A full driver’s license which shall not  
7           be issued until the driver has held a provisional  
8           license for at least 6 months with a clean driv-  
9           ing record.

10          “(B) For purposes of subparagraph (A)(iii), a  
11          provisional licensee has a clean driving record if the  
12          licensee—

13               “(i) has not been found, by civil or crimi-  
14               nal process, to have committed a moving traffic  
15               violation during the applicable period;

16               “(ii) has not been assessed points against  
17               the license because of safety violations during  
18               such period; and

19               “(iii) has satisfied such other requirements  
20               as the Secretary may prescribe by regulation.

21          “(C) The Secretary shall determine the condi-  
22          tions under which a State shall suspend provisional  
23          driver’s licenses in order not to have funds trans-  
24          ferred under subsection (a). At a minimum, the  
25          holder of a provisional license shall be subject to



1 driver control actions that are stricter than those ap-  
2 plicable to the holder of a full driver's license, in-  
3 cluding warning letters and suspension at a lower  
4 point threshold.

5 If the Secretary determines that a State law is substan-  
6 tially the same as what is required under paragraph (3)  
7 or (4), such law shall be treated as meeting such require-  
8 ment.

9 “(c) FEDERAL SHARE.—The Federal share of the  
10 cost of any project carried out under section 402 with  
11 funds transferred to the apportionment of section 402  
12 under this section shall be 100 percent.

13 “(d) TRANSFER OF OBLIGATION AUTHORITY.—If the  
14 Secretary transfers under this section any funds to the  
15 apportionment of a State under section 402 for a fiscal  
16 year, the Secretary shall allocate an amount of obligation  
17 authority distributed for such fiscal year to the State for  
18 Federal-aid highways and highway safety construction  
19 programs for carrying out only projects under section 402  
20 which is determined by multiplying—

21 “(1) the amount of funds transferred under this  
22 section to the apportionment of section 402 of the  
23 State of such fiscal year; by

24 “(2) the ratio of the amount of obligation au-  
25 thority distributed for such fiscal year to the State

1 for Federal-aid highways and highway safety con-  
2 struction programs to the total of the sums appor-  
3 tioned to the State for Federal-aid highways and  
4 highway safety construction (excluding sums not  
5 subject to any obligation limitation) for such fiscal  
6 year.

7 “(e) LIMITATION ON APPLICABILITY OF HIGHWAY  
8 SAFETY OBLIGATIONS.—Notwithstanding any other pro-  
9 vision of law, no limitation on the total of obligations for  
10 highway safety programs carried out by the Federal High-  
11 way Administration under section 402 shall apply to funds  
12 transferred under this section to the apportionment of sec-  
13 tion 402.”.

14 **SEC. 4. CONFORMING AMENDMENT.**

15 The analysis for chapter 1 of title 23, United States  
16 Code, is amended by adding at the end the following:

“161. Drunk driving.”.

